

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

STEPHEN KENNEDY

**DEFENDANTS**

CREDITGO, LLC

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

Laufer, Dalena, CAdicina, Jensen & Boyd, LLC, 23 Cattano Avenue,  
Morristown, NJ 07960, Tel

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

17 U.S.C. 501-505

Brief description of cause:  
Copyright Infringement

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW JERSEY- CAMDEN

-----X  
STEPHEN KENNEDY,

Plaintiff,

**COMPLAINT**

-against-

CREDITGO, LLC,

Defendant.  
-----X

Plaintiff, STEPHEN KENNEDY, by his attorneys, LAUFER, DALENA, CADICINA,  
JENSEN & BOYD, LLC, alleges as follows:

**PARTIES**

1. Plaintiff STEPHEN KENNEDY (hereinafter "Plaintiff" or "KENNEDY")  
is a United States Citizen, who is actively engaged/engages in the business of licensing  
photography in the State of New York and elsewhere, and who resides at 108 Executive  
Estates Dr., Saint Louis, Missouri 63141.

2. Defendant CREDITGO, LLC, (hereinafter "Defendant" or  
"CREDITGO"), is a business corporation duly organized and existing under the laws of  
the State of New Jersey, which upon information and belief, maintains its principle place  
of business at 700A White Horse Pike, Suite 125, Somerdale, New Jersey, 08083.

**JURISDICTION AND VENUE**

3. This is a civil action for copyright infringement.
4. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1338.
5. Venue in the District of New Jersey is proper pursuant to 28 U.S.C. §  
1400.

### FACTS COMMON TO ALL CLAIMS

6. That Plaintiff KENNEDY is a successful professional photographer with many years of experience and a considerable reputation.

7. KENNEDY is well known in the photography business, as he is proprietor of Kennedy Stock ([www.kennedystock.com](http://www.kennedystock.com)), a licensing company with over 9,000 photographs of actors, models and real people shot by Kennedy.

8. KENNEDY's photos are typically and frequently licensed by businesses for payment of a fee in lieu of hiring a photographer and model for the purposes of creating a "new image."

9. KENNEDY operates a stock photography website, [www.kennedystock.com](http://www.kennedystock.com) in order to display said images, and promote the licensing thereof for profit.

10. Kennedy derives substantial income from the licensing of images throughout the United States.

### THE IMAGES

11. Kennedy shot images of the model, Julia Peterson (hereinafter "Peterson"), which were published on his website, [www.kennedystock.com](http://www.kennedystock.com).

12. One of such images of Peterson captures her standing against a car, wearing a collared shirt (hereinafter the "Image" or "Subject Image", a copy of which is annexed hereto as **Exhibit "A"**).

13. KENNEDY is well known as the creator of the Subject Image, as he is credited with the rights to the image through the use of an identifying watermark on the image.

14. KENNEDY is further known as the creator of the Subject Image as there is a link titled "Pricing" at the top of his webpage which gives visitors (existing or prospective clients) directions on how to licensing rights to the Subject Image.

15. KENNEDY duly registered the Subject Image with the United States Copyright Office on December 8, 2008, Registration No. VAu 1-012-293 (a copy of said registration is annexed hereto within **Exhibit "B"**).

16. CREDITGO is engaged in the business of operating for-profit websites that contain editorial content and for which they solicit and run advertising.

17. At all relevant times herein, defendant operated the website, [www.carloango.com](http://www.carloango.com), a for-profit website.

18. Defendant employed Plaintiff's above the caption, "24/7 Customer Service & Support," without Plaintiff's license, authorization, or consent (a copy of such unauthorized use is as **Exhibit "C"**).

19. The Subject Image of Peterson was/is commercially valuable to Plaintiff.

20. The Defendant has not secured any authorized consent, or model release from Peterson as set forth herein. Such usage without prior written consent from Peterson constitutes a misdemeanor under NY Law, specifically NY Civil Rights Law, Section 50.

#### **THE OFFENDING USES OF THE IMAGES**

21. CREDITGO has employed Kennedy's Image on *at least* [www.carloango.com](http://www.carloango.com) (a copy of which is annexed hereto as **Exhibit "C"**).

22. Further, the identifying watermark that appears on the Image in its original format has been deleted, and/or electronically mutilated from the Image displayed on Defendant's websites.

23. Such alteration and/or mutilation constitutes an attempt to circumvent the copyright protection system utilized by Plaintiff.

24. Additionally, such alteration and/or mutilation of the Image constitutes an attempt to undermine Plaintiff's copyright management tactics.

25. KENNEDY has never granted CREDITGO any license, nor provided authorization or consent to CREDITGO to use the Subject Image in *any* media whatsoever.

26. Pursuant to Federal Rule 11, Plaintiff has sought to obviate judicial intervention and filing of suit.

27. Plaintiff, by its counsel, issued and delivered a writing dated October 8, 2014, notifying Defendant of infringing uses being made of the Image by it (a copy of which is annexed hereto within **Exhibit "D,"** hereinafter the "Notice Letter").

28. The Notice Letter requested source and usage information.

29. Defendant, by one "Kwame," responded to the Notice Letter via telephone to Kennedy on November 14, 2014.

30. By information and belief, one "Kwame Johnson" and "Michael Zarrilli", are cofounders of CREDITGO.

31. Defendant acknowledged receipt of letter and indicated that Defendant intended to remove Subject Image (a copy of said correspondence is annexed hereto within **Exhibit "E"**).

32. Plaintiff's counsel, in the Notice Letter, advised that Defendant must provide source and usage information of the Subject Image.

33. Defendant has provided none of the source and usage information sought by Plaintiff.

34. The Notice Letter advised defendant to remove our client's image from its website, [www.carloango.com](http://www.carloango.com), that its uses of the Subject Image were in violation of KENNEDY's copyright, and that it has no right to use Subject Image in any way, shape or form.

35. Defendant ignored the requests made in the October 8, 2014 Notice Letter.

36. Defendant has failed to provide the information necessary for the parties to resolve the matter without resorting to litigation.

37. Plaintiff is committed to protecting his copyright in the Subject Image.

38. That the full nature and extent of all infringing uses of plaintiff's image by CREDITGO are unknown to Plaintiff as of this writing, said information being within the sole knowledge, custody, and control of Defendant. That such details and information are expected to be ascertained through discovery in this action.

39. That the Defendant has no defense at law to the claims set forth herein

40. Paragraphs "1" through "39" are incorporated by reference with respect to each of the below claims for relief.

**FIRST CLAIM FOR RELIEF**  
**Copyright Infringement**  
**Under Section 501 of the Copyright Act**

41. That the use of Plaintiff's Image by the Defendant, in connection with the website [www.carloango.com](http://www.carloango.com) was and without the Plaintiff's authorization, license or consent.

42. That, upon information and belief, the aforementioned acts of Defendant, constitute federal statutory copyright infringement under Section 501 of the Copyright Act in violation of the rights granted to KENNEDY as copyright holder.

43. That, upon information and belief, Defendant's use of the Subject Image was willful, intentional and in bad faith.

44. That, upon information and belief, Defendant's use of the Image in violation of Plaintiff's copyright was negligent in that it knew or should have known that it was without a license for the use(s) complained of herein.

45. That, upon information and belief, Defendant, had actual and/or constructive knowledge and/or through the exercise of ordinary business care and/or the examination of public records, knew or should have known that Plaintiff held the copyright in the Subject Image, that Defendant never had (at any of the relevant times herein) a license, consent, or authorization by Plaintiff for the use of Plaintiff's Image on its website or in any other medium of news source employed by Defendant, and that any such use would be in violation of Plaintiff's copyright.

46. That as a result of Defendant's acts; Plaintiff has been and will continue to be damaged in an amount as yet to be determined. Plaintiff is a professional photographer who earns his livelihood by licensing rights to third parties to employ his photographic images.

47. That Plaintiff is further entitled to damages, attorneys' fees and costs under Section 504 and 505 of the Copyright Act, 17 U.S.C. Section 101 et., seq., given the willful, intentional, malicious and bad faith nature of Defendant's copyright infringement, and as an alternative to statutory damages, Plaintiff, at his election prior to judgment is entitled to recover his actual damages and any additional profits of the Defendant, attributable to the infringement as under 17 U.S.C. Sections 504 (a)-(b). Plaintiff is similarly entitled to an injunction permanently enjoining and prohibiting the Defendant from utilizing the subject image in any manner.

**SECOND CLAIM FOR RELIEF**

**Removal or Alteration of Copyright Management Information**  
**Under Section 1202 of the Copyright Act**

48. Upon information and belief, Defendant intentionally and willfully removed or altered the KENNEDY Label from the Subject Image, without the authority of KENNEDY.

49. That Defendant distributed plaintiff's Image *at least* on www.carloango.com while knowing that the KENNEDY Label was removed or altered without the authority of KENNEDY.

50. That Defendant's cropping of the Image such that the Kennedy Label was removed from its display and publication constitutes a violation of Section 1202(b) of the Copyright Act.

51. Upon information and belief, Defendant knew and/or had reasonable grounds to know that by concealing the KENNEDY Label it would induce, enable, facilitate, or conceal defendant's infringement of Plaintiff's Image.



52. That Defendant intentionally and/or knowingly concealed the KENNEDY Label as aforesaid, in order to conceal that its use of the Image was without the authorization of KENNEDY and in violation of law.

53. As a result of Defendant's actions with regard to the KENNEDY Label, Plaintiff has been and will continue to be damaged in an amount as yet to be determined.

54. As a result of Defendant's actions with regard to the KENNEDY Label, Plaintiff is entitled to damages in the form of actual or statutory damages pursuant to 17 U.S.C. 1203(b)(3) and 1203(c), costs pursuant to 17 U.S.C. 1203(b)(4), reasonable attorney's fees pursuant to 17 U.S.C. 1203(b)(5), a temporary and permanent injunction pursuant to 17 U.S.C. 1203(b)(1), and or the impounding, modification or destruction of any items involved in the violation pursuant to 17 U.S.C. 1203(b)(2) and 1203(b)(6).

55. Plaintiff, in addition to remedies based in the cited sections of U.S.C. Title 17, is further entitled to award(s) of monetary damages as set forth in sections 17 U.S.C. § 1201 through at least 1204 inclusive, in amounts specifically set forth in said sections.

#### **JURY DEMAND**

56. That Plaintiff requests a trial by jury of all issues.

**WHEREFORE**, Plaintiff demands judgment as against the Defendant as follows:

**ON THE FIRST CLAIM-** (A) Award to plaintiff his actual damages incurred as a result of Defendant's infringements, and all profits realized as a result of their infringements, in amounts to be determined at trial but in an amount to be determined by this court; or (B) in the alternative, at Plaintiff's election, award to Plaintiff maximum statutory damages pursuant to 17 U.S.C. § 504 for each individual act of infringement, and for an order of injunction permanently enjoining and prohibiting the Defendant,

including but not limited to wholly owned subsidiaries, from employing or utilizing in any manner or media whatsoever, including all future uses, sales, transfers, assignments, or licensing of any and all of Plaintiff's copyrighted Image, pursuant to 17 U.S.C. § 502 and for an award of costs and attorneys' fees pursuant to 17 U.S.C. § 505;

**ON THE SECOND CLAIM-** (A) Award to Plaintiff his actual damages incurred as a result of Defendant's infringements, in amounts to be determined at trial but in an amount to be determined by this court; or (B) in the alternative, at Plaintiff's election, award to Plaintiff maximum statutory damages pursuant to 17 U.S.C. § 1203 and the subparagraphs therein for each individual act of infringement; and for an order of injunction permanently enjoining and prohibiting the Defendant, including but not limited to wholly owned subsidiaries, from employing, altering, cropping, mutilating or otherwise utilizing Plaintiff's copyrighted Image or its copyright management information in any manner or media whatsoever, pursuant to 17 U.S.C. § 1203(b)1; and for an award of costs and attorneys' fees pursuant to 17 U.S.C. § 1203(b)(4)-(5);

Prejudgment interest on all sums due;

And such other and further relief as this Court may deem just and proper inclusive of any and all relief or remedies allowable by the statutes referenced above or applicable hereinabove.

Dated: March 11, 2015

Yours, etc.

s/James C. Jensen (JCJ 026421985)

Laufer, Dalena, Cadicina, Jensen & Boyd, LLC

By: James C. Jensen, Esq. (JCJ 026421985)

23 Cattano Avenue

Morristown, NJ 07960

Tel: (973) 285-1444

Fax: (973) 285-0271

*Attorneys for Plaintiff*

EDWARD C. GREENBERG, LLC.

By: Edward C. Greenberg, Esq.

*(pro hac vice application to be filed)*

570 Lexington Ave., 19<sup>th</sup> Floor

New York, NY 10022

Tel: (212) 697-8777

Fax: (212) 697-2528

## **Exhibit A**



## **Exhibit B**



FROM :KENNEDY/OTTOLINI

FAX NO. :2063398704

Mar. 14 2010 02:11PM P1

## Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

Register of Copyrights, United States of America

Registration Number

VAu 1-012-293

Effective date of  
registration:

December 8, 2008

Title

Title of Work: Unpublished 08-256 to 08-290 All are digital captures

Completion/ Publication

Year of Completion: 2008

Author

■ Author: Stephen Kennedy

Author Created: Photograph

Copyright claimant

Copyright Claimant: Stephen Kennedy

108 Executive Estates, Saint Louis, MO, 63141

Rights and Permissions

Name: Stephen Kennedy

Email: stephen@stephenkennedy.com

Telephone: 314-621-6545

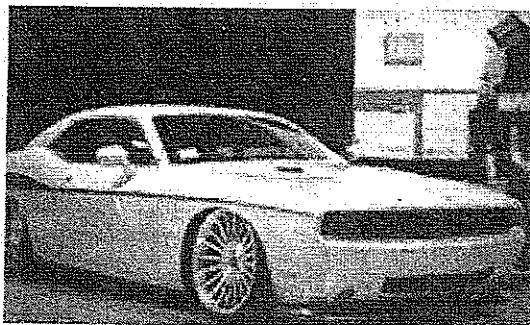
Address: 108 Executive Estates

Saint Louis, MO 63141

Certification

Name: Stephen Kennedy

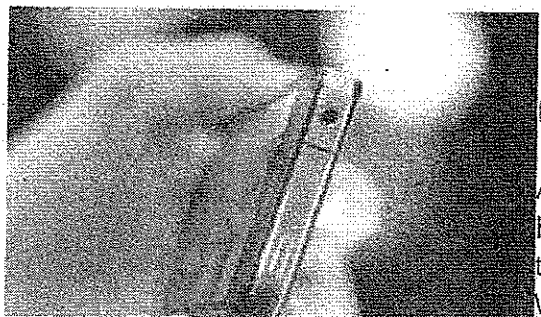
## **Exhibit C**



## **Know before visiting A Dealer**

Wouldn't it be great to know your approval status before visiting a dealership. Carloango.com® helps you avoid potential embarrassment those with bad credit face when shopping for New or Used Vehicles.

[Apply Now \(application.php\)](#)



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\(application.php\)](#)



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## **Exhibit D**

**EDWARD C. GREENBERG, LLC**

COUNSELORS AT LAW  
570 LEXINGTON AVENUE, 19<sup>TH</sup> FLOOR  
NEW YORK, NY 10022

TELEPHONE: (212) 697-8777  
FACSIMILE: (212) 697-2528  
ecglaw@gmail.com

Tamara L. Lannin

Of Counsel:  
Debra S. Reiser

October 8, 2014

BY PRIORITY MAIL

And E-MAIL

Creditgo, LLC

Attn: Colin Zarrilli

700A WhiteHorse Pike, Ste. 125

Somerdale, NJ 08083

colin@creditgollc.com

Re: Stephen Kennedy w/ Creditgo, LLC

Our File: C444p14

Dear Mr. Zarrilli,

We serve as retained copyright litigation counsel to Mr. Stephen Kennedy, a photographer of considerable reputation and proprietor of Kennedy Stock, a rights-managed photograph licensing company. This office routinely litigates matters of this nature.

We write regarding your unauthorized use of our client's image of model Julia Peterson. Copies of our client's image are annexed hereto as **Exhibit "A"**. Mr. Kennedy is the sole owner of and holds the copyright in the Subject Image, which was registered with the United States Copyright Office on December 8, 2008, registration number VAu 1-012-293. A copy of the registration is annexed hereto as **Exhibit "B"**.

You have employed our client's registered image *at least* on your website, (carloango.com), without his license, authorization or consent. A copy of the offending use is annexed hereto as **Exhibit "C"**. It appears that the advertisement misrepresents model Julia Peterson as a customer of a vehicle financing service. *Such representation is utterly false and misleading.*

No one from your company, nor an agent thereof, has ever sought a license from Mr. Kennedy to employ the subject image for any purpose whatsoever, notwithstanding that his contact information is easily found via a simple Google search. This letter serves as notice for you *immediately to cease and desist* all unauthorized uses of our client's image.

You have employed our client's image without his permission, license or consent. You must be aware the use of a creator's photographic image(s) *without written consent* or license is violative of the **United States Code, Title 17, and The Copyright Act**. Said federal statute affords the creator a plethora of remedies including one or more of the following: monetary relief in the form of compensatory and or statutory damages, an award of attorney's fees and/or an

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injunction directing removal of the offending materials from the market place pending litigation.

*If you are in possession* of any contract, license, agreement or writing of any kind or nature upon which you intend to rely for the proposition that such usage is *authorized* or in the alternative, conclusively establishes that our client's claim is without merit, formal request is made herein to provide same. Such request is made pursuant to Federal Rule 11 in a good faith effort to obviate litigation. Failing the production of such license we will be constrained to assume that such usage is violative of law. In such event, we intend to institute suit against your production and any other appropriate defendants in the appropriate judicial forum forthwith.

*In the event you are not in possession* of any executed exculpatory documents, and pursuant to our obligations under Rule 11, Rule 130 (and any other substantially equivalent rules or statutes), *formal request is made herein for the following information and documents* reflecting or demonstrating the requested information:

1. The full nature and extent of the use of our client's image, in any and all formats, inclusive of the broadcast media and websites described herein as well as distribution on any other websites or programs owned, operated, or affiliated with Creditgo, LLC, inclusive of the commencement of the terms of such use(s), and location(s) of such uses or displays; inclusive of any use(s) in other publications and/or other media;
2. Representative copies in any and all tangible form and media in which our client's image were incorporated or employed;
3. The source of the image and the identities of the persons or companies preparing, supplying, editing, and/or producing same;
4. The nature and extent of any prospective license(s) you may be seeking to allow for prospective authorized use(s), or which will provide adequate time to remove the offending image from the web obviating plaintiff's need to seek judicial intervention for the purposes of obtaining an injunction prohibiting any and all uses such offending uses of his image;
5. Copies of any documents in any format upon which you intend to rely for the proposition that Mr. Kennedy had knowledge of and/or agreed to have his image published by Creditgo, LLC. inclusive of any emails or documents of any kind by and between Creditgo, LLC. (and/or those acting on its behalf) and Mr. Kennedy (and/or those acting on his behalf);
6. Copies of written agreements or documents, with any and all persons or entities, referencing the creation, and reproduction regarding the offending use(s) of our client's image;
7. Copies of written agreements or documents, with any and all persons or entities with whom you have transferred, assigned, licensed, or provided the image, which

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reference the subject image and/or any corresponding products or publications in which the image is employed;

8. Copies of any copyright registrations filed with any government or agency thereof referencing, relating or including the image complained of herein;
9. Copies of any contracts or agreements between Creditgo, LLC and Mr. Stephen Kennedy, or any party that might claim rights to copyright ownership of the image;
10. Copies of any contracts, agreements, written release or model vouchers executed by Ms. Julia Peterson, or their agents (and/or equivalent), consenting to the licensing and use of the subject image through carloango.com;
11. Records reflecting distribution or sales at any/all manufacture, printing, and/or publication levels of publications or products incorporating the subject image on, affixed or attached to such product(s) or in promotional and advertising on behalf of such publications or products;
12. Documents reflecting the sales figures and profits realized from use of our client's image;
13. An accounting of the number and nature of offending websites and print publications (inclusive of the publication referenced herein) which have yet to be published;
14. Copies of any purported licenses or assignments relating to the image referenced herein and issued to your company by any third party.

*Upon receipt of such information* we can fairly consider and determine an appropriate amount of compensation which may or may not include the granting of a limited license for prospective use or in the alternative, a brief period of time within which to permit removal of the image from the production. It is not our client's preference to commence litigation and he would prefer to resolve the matter promptly and amicably. In order to do so, receipt of the above requested information within seven (7) business days of date is essential.

The following is to formally notify you, your company, its agents, employees and contractors not to destroy, conceal or alter any goods, information, and/or images stored in electronic form or generated by your computer systems or electronic devices including but not limited to its web sites. This information appears relevant to the above matters and may be unavailable from any other source. As you may know, such electronic information can easily be inadvertently destroyed and the failure to *take reasonable measures to preserve* it pending the completion of discovery can result in sanctions being imposed against you or your company. See, e.g., *Cedars Sinai Med. Ctr. v. Superior Ct.* (1998) 18 Cal 4<sup>th</sup> 1, 74 Cal Rptr 2d 248; *Zubulake v. UBS Warburg LLC* (SDNY 2003) 220 FRD 212, 216.

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In order to comply with the discovery requests that we will make in this matter you may need to provide electronic evidence in its native format. You may also need to provide electronic documents, along with the metadata or information about data that is contained in those electronic documents. Even when a paper copy of a document or file exists, we will also seek the documents or files in their electronic format so that we also receive the information in the metadata. Our discovery requests will include certain data on your hard drives, floppy discs, and backup files, and will include data not usually available to the ordinary computer user, such as deleted files and file fragments.

Thus the electronic data and the storage devices in which they are kept that you are obligated to maintain and preserve during the pendency of the discovery planned in this case include all of the following data and devices:

1. Electronic files including deleted files and file fragments, stored in machine-readable format on magnetic optical or other storage media, including hard drives or floppy disks in your client's desktop computers, laptop computers, home personal computers, zip drives, external hard drives, usb keys, and the backup media used for each;
2. E-mail, both sent and received, internally or externally;
3. Telephone files and logs such as voicemail and universal mobile telecommunications systems (UMTS) data;
4. Word processing files, including drafts and revisions;
5. Spreadsheets, including drafts and revisions;
6. Databases;
7. Electronic files in portable storage devices such as floppy discs, compact discs, digital video discs, ZIP drives, thumb drives or pen drives;
8. Graphs charts and other data produced by project management software;
9. Data generated by calendaring, task management and personal information management software, such as Microsoft Outlook;
10. Data created with the use of or stored on personal data assistants such as PalmPilot inclusive of substantially equivalent devices;
11. Data created, derived and/or edited with the use of editing software such as Photoshop, Adobe, and any accompanying software;
12. Data created with the use of paper and electronic mail logging and routing software;

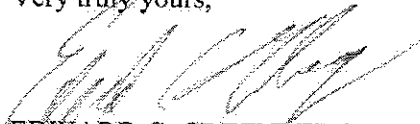
**EDWARD C. GREENBERG, LLC**

13. Internet and web-browser generated history files, caches, and "cookies" generated by your client or at the workstation of each employee in your client's employ and on any and all backup storage media;
14. Logs of network use by you and your distributors and/or customer's employees, whether kept in paper or electronic format;
15. Copies of your backup tapes and the software necessary to reconstruct the data on those tapes on each and every personal computer or workstation and network server in your client's control and custody;
16. Electronic information in copiers, fax machines and printers;
17. Web-site files and records of any kind and all histories of those files;
18. All records of sales generated and processed through software for goods employing the offending image.
19. Records, copies, reproductions and evidence set forth above existing or printed on physical paper or paper product(s).

As previously stated, and as your legal counsel will be aware, the failure to maintain such information, and any other electronic information which may be called upon in discovery, can lead to severe penalties in the discretion of the Court. *We strongly urge you to retain independent legal counsel and provide him/her with a copy of this letter and its enclosures.*

Should you choose not to retain counsel, please contact us within three (3) days of date to discuss this matter. We require delivery of the above sought documentation within seven (7) days of date. Absent an exculpatory document or license, any and all uses of our client's image will be made at your peril. Should we fail to hear from either you or your counsel we will file suit in the appropriate judicial forum against your company and any other appropriate defendants without further notice.

Very truly yours,



EDWARD C. GREENBERG

cc: Stephen Kennedy via e-mail  
Encl.

## **Exhibit E**



Edward Greenberg <ecglaw@gmail.com>

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## Infringement/New Jersey Auto Loan Company

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Stephen Kennedy <legal@kennedystock.com>

Fri, Nov 14, 2014 at 4:07 PM

To: Edward Greenberg <ecglaw@gmail.com>

Cc: Tamara Lannin <tl.ecglaw@gmail.com>

Ed & Tamara,

I was just contacted by someone named Kwame at 267-595-1383 about taking down a photo based on letter he received. I think it's relating to <https://www.carloango.com/about-us.php>

The infringing photo has been removed. I told Kwame to direct any additional communications to your office.

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Stephen Kennedy  
Photographer & Proprietor  
KennedyStock

314-621-6545

[www.kennedystock.com](http://www.kennedystock.com)

